

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SEA MAR COMMUNITY HEALTH  
CENTERS,

Plaintiff,

v.

ACCREDITATION COUNCIL FOR  
GRADUATE MEDICAL EDUCATION,

Defendant.

CASE NO. 2:24-cv-896

ORDER

Plaintiff Sea Mar Community Health Centers (“Sea Mar”) moves to expedite production of documents from Defendant Accreditation Council for Graduate Medical Education (“the Council”). Dkt. No. 33. The Court held a hearing pursuant to LCR 7(i) on July 2, 2024, and heard oral argument from the parties. The Court ordered the parties to submit briefing on the issues raised during the hearing using the District’s Expedited Joint Motion Procedure under LCR 37(a)(2). After reviewing the parties’ briefing, the relevant record, and hearing argument, the Court GRANTS Sea Mar’s motion in part as explained below.

1 Generally, “[p]arties may obtain discovery regarding any nonprivileged  
2 matter that is relevant to any party’s claim or defense and proportional to the needs  
3 of the case.” Fed. R. Civ. P. 26(b)(1). A court may authorize early discovery—that is,  
4 discovery before the civil rules and the pretrial schedule typically allow—upon a  
5 showing of “good cause.” *Rovio Entm’t Ltd. v. Royal Plush Toys, Inc.*, 907 F. Supp.  
6 2d 1086, 1099 (N.D. Cal. 2012). “Good cause” exists if the need for expedited  
7 discovery outweighs the prejudice to the responding party. *Synopsys, Inc. v.*  
8 *AzurEngine Techs., Inc.*, 401 F. Supp. 3d 1068, 1076 (S.D. Cal. 2019). District courts  
9 have broad discretion in determining relevancy and managing discovery. *Avila v.*  
10 *Willits Env’t. Remediation Tr.*, 633 F.3d 828, 833 (9th Cir. 2011); *Survivor Media,*  
11 *Inc. v. Survivor Prods.*, 406 F.3d 625, 635 (9th Cir. 2005).

12 Sea Mar argues there is good cause to expedite discovery because it needs the  
13 documents sought “to prepare a meaningful written presentation” before its August  
14 2, 2024, appeal hearing. Dkt. No. 33 at 7. Sea Mar also claims “[b]y proactively  
15 working to secure its due process rights ex ante, rather than simply waiting for  
16 deprivation of those rights and litigating them ex post, Sea Mar is fulfilling its  
17 obligation to mitigate damages from [the Council’s] allegedly wrongful dismantling  
18 of the residency program and limiting [the Council’s] corresponding liability.” *Id.* at  
19 22.

20 The Council argues this is an improper purpose because Sea Mar has no need  
21 in this “particular litigation” for the information sought and less reason for why it is  
22 due now. Dkt. No. 33 at 2, 10 (citing *Oppenheimer Fund v. Sanders*, 437 U.S. 340,  
23 352 n.17 (1978)).

1 But the Council's argument does not fit the circumstances of this case. In  
2 *Oppenheimer Fund*, the requested discovery was not relevant to the respondent's  
3 underlying claims. Here, the discovery requests are relevant not only to Sea Mar's  
4 appeal but also to its due process claims in *this* litigation. Moreover, because the  
5 appeals process is unfolding, so too are the circumstances underlying Sea Mar's  
6 litigation claims and the extent of the damages it may ultimately suffer. Thus, it  
7 follows that Sea Mar should be afforded an opportunity to mitigate its injuries by  
8 gaining access to the information it needs to challenge the Council's decision. *See*  
9 *Cunningham Lindsey U.S. LLC v. Box*, No. 1:18-CV-4346-MHC, 2018 WL 6266554,  
10 at \*10 (N.D. Ga. Oct. 23, 2018) (allowing expedited discovery to mitigate harms).  
11 The Council fails to show that it will suffer any prejudice if Sea Mar's request is  
12 granted, and certainly none that overcomes Sea Mar's need for the information.  
13 This scenario, unusual as it may be, warrants the relief requested. *See Fimab-*  
14 *Finanziaria Maglificio Biellese Fratelli FILA v. Helio Import/Export, Inc.*, 601 F.  
15 Supp. 1, 3 (S.D. Fla. 1983) ("Expedited discovery should be granted when some  
16 unusual circumstances or conditions exist that would likely prejudice the party if  
17 [they] were required to wait the normal time.").

18 Accordingly, the Court orders as follows:

- 19 1. The Council must fully respond to Sea Mar's Request for Production  
20 Nos. 2 and 3 (Dkt. No. 33-1 at 6) by July 16, 2024.
- 21 2. For purposes of the Council's initial production only, the responsive  
22 period for Request for Production Nos. 2 and 3 is through April 18,  
23 2024.

- 1           3. For purposes of the Council's initial production only, the Court  
2           STRIKES Request for Production No. 1.
- 3           4. The Court DENIES the Council's request to enter the District's  
4           model protective order given Sea Mar's objection to the order as  
5           drafted. The Court orders the parties to meet and confer about the  
6           terms and scope of a protective order and to submit a mutually  
7           agreeable stipulated protective order. As for additional guidance on  
8           this issue, the Court struggles to see how disclosing responsive  
9           documents to the Council—the producing party here—during an  
10          internal appeals process would violate the terms of any protective  
11          order. Whether the Council will accept and review any such  
12          documents during Sea Mar's accreditation appeal is, for now, a  
13          matter between the parties. The parties may file subsequent  
14          proposed protective orders, or move to amend existing ones, as this  
15          litigation progresses.
- 16          5. The Council may redact from its responsive documents, "information  
17          regarding other residency programs under review by the Review  
18          Committee" and "Review Committee agenda items unrelated to the  
19          Sea Mar action." The Council may not redact "residents' and faculty  
20          members' names and other identifying details" unless the  
21          information is covered by privilege or the Local Civil Rules.
- 22          6. The Council's motion to strike arguments from Sea Mar's reply is  
23          DENIED. Dkt. No. 34. Sea Mar addressed both the relevance of the

information sought and need for early discovery during oral  
argument.

Dated this 10th day of July, 2024.

A handwritten signature in black ink, appearing to read "Jamal W", is written over a solid black horizontal line.

Jamal N. Whitehead  
United States District Judge